

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Akinori Masushige
Serial No.: 10/731,974
Conf. No.: 9034
Filed: December 10, 2003
For: HOST TERMINAL EMULATOR
Art Unit: 2128
Examiner: Silver, David

REQUEST FOR ACKNOWLEDGMENT OF RECEIPT OF
CERTIFIED COPY OF PRIORITY DOCUMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants respectfully request acknowledgment of the receipt of the certified copy of Japanese Priority Document No. 2005-358569, which certified copy was mailed to the United States Patent & Trademark Office (USPTO) on April 7, 2004. The PAIR system of the USPTO website indicates that the certified copy was received on April 13, 2004, and the PAIR system shows a pdf version of the copy of the Japanese priority document, with a certification from the Japan Patent Office.

In the May 4, 2007 Office Action, on page 2 (paragraph numbers 5-7), the Examiner denies the priority request. The denial appears to be on the basis that: (1) an English translation of the priority document has not been provided, and (2) there is no certification by the foreign intellectual property authority.

With regard to the English translation, Applicants respectfully submit that a priority claim to a prior foreign application is normally granted without an English translation of the foreign application, except in very limited circumstances, none of which apply to the instant application. More specifically, 37 C.F.R. §1.55(4)(i) states (emphasis added): “An English language translation of a non-English language foreign application is not required except: (A) when the application is involved in an interference (see § 41.202 of this title), (B) when necessary to overcome the date of a reference relied upon by the examiner, or (C) when specifically required by the examiner.” None of the three exceptions (A-C) apply to the instant application. Further, consideration of the merits of the priority claim by the Examiner in the instant case is not warranted because there is no rejection based on a reference with a date between the foreign priority date and the US filing date, nor does the application appear to be under consideration for an interference. See MPEP §201.15 (“The only times during ex parte prosecution that the examiner considers the merits of an applicant’s claim of priority is when a reference is found with an effective date between the date of the foreign filing and the date of filing in the United States and when an interference situation is under consideration.” (emphasis added)). Accordingly, since an English translation of the priority document has not been specifically required by the Examiner (nor has there been any reason asserted for such a translation), and the other two exceptions do not apply to the present application, Applicants respectfully submit that the priority request should be granted.

With regard to the certification of the Japanese priority document by a foreign intellectual property authority, Applicants note that the Japan Patent Office has certified the Japanese priority document, as evidenced in April 13, 2004 entry in the PAIR system of the

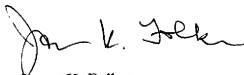
USPTO website, which shows a version copy of the copy of the Japanese priority document, with a certification from the Japan Patent Office. Accordingly, as this requirement has been met, Applicants respectfully submit that the priority request should be granted.

The Examiner is invited to contact the undersigned attorney if any questions regarding this paper should arise.

Respectfully submitted,

GREER, BURNS & CRAIN, LTD.

By

A handwritten signature in black ink, appearing to read "James K. Folker", written over a horizontal line.

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March 13, 2009

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